DRA

Division of Ratepayer Advocates
California Public Utilities Commission

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December 11, 2008

President Michael R. Peevey
Commissioner John A. Bohn
Commissioner Rachelle B. Chong
Commissioner Dian M. Grueneich
Commissioner Timothy A. Simon
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: December 18 Commission Vote on Proposed Decision and Alternate Proposed Decision on 2006-2008 Interim Energy Efficiency Incentive Claims

Dear Commissioners:

On December 18, the Commission is scheduled to cast a pivotal vote that will determine whether or not energy efficiency is valued as a cost-effective and reliable energy resource for California, as well as an instrument to address climate change. DRA respects and applauds the proactive leadership the Commission has taken to-date to promote energy efficiency as an innovative strategy in this regard. The Commission should stay on course to utilize the shareholder incentive mechanism as a tool to motivate superior performance for utility management of energy efficiency programs by means of a transparent and verified process. Energy efficiency has the potential to be both the most expedient and most cost-effective weapon in fighting climate change, but only if the energy savings are real and sustainable, and that requires accountability. Accordingly, I am writing to request that you support the Proposed Decision of the presiding judge in this matter.

The shareholder incentive mechanism is valuable only insofar as it serves to maximize verified energy savings for California. Rewarding the utilities based on self-reported claims, despite a draft independent verification report which indicates poor performance, would be a gross mismanagement of ratepayer dollars. If energy savings are not real, then investment in more power plants will not be avoided and over-procurement may occur, resulting in increased and unnecessary costs to ratepayers. Ultimately, rather than motivating superior utility performance, the mechanism will likely devolve into a perverse incentive that serves only to guarantee a utility revenue stream, rather than motivate optimal energy savings.

The costs of energy efficiency programs are real and certain to ratepayers each month on their utility bills, yet the benefits are much more illusive. Although the utilities assert that their customers are receiving billions of dollars in net benefits from energy efficiency programs, the only result that ratepayers actually see is that their bills continue to increase in order to support a myriad of energy programs, including their investment in energy efficiency. Just as the utilities claim that "certainty" of earnings is a fundamental concern, ratepayers should be entitled to the same certainty that their monthly investment in energy efficiency is producing a clear and tangible return.

The Commission should consider criticisms of the Draft Verification Report by the utilities as well as rebuttal to such criticisms by CPUC staff, who manage the independent review, before it decides on utility performance payments. The CPUC staff report is consistent with DRA and TURN's independent analysis, which determined that there was a significant risk that three of the four utilities' performance would not support an incentive reward. While the utilities' own assessments may find flaw with the CPUC staff's report, the current Commission-established process provides the mechanism by which the utilities and other interested parties can voice their concerns. Most importantly, the CPUC staff and the independent consultants whose analysis underlies the verification process have no financial interest in the outcome and must have the opportunity to address these concerns.

Verification of energy efficiency programs is consistent with the CPUC's longstanding policy. The utilities have provided no evidence that a delay to finalize the Draft Verification Report in January 2009 would cause them material harm. In fact, the findings in the Draft Report make it clear that it is ratepayers who are likely to be harmed if payments are made based on utility claims. The shareholder incentive mechanism should function only as a means to achieve actual energy savings; it should not be the end goal itself. While a mechanism that is "clear, timely, and predictable" is desirable, its ultimate measure of effectiveness must be that it motivates superior performance to maximize verified energy savings.

DRA strongly opposes expedited treatment of shareholder incentive payments without the accountability provided by independent verification. The Commission is at a crossroads. It will choose whether expediency trumps verification as the definition of successful energy efficiency programs. If it chooses expediency and rewards the utilities for unsubstantiated claims, the Commission will set energy efficiency on a course that perpetuates poor portfolio design that values guaranteed utility revenues over actual energy savings. Given the current request by the utilities for nearly $4 billion to run the 2009-2011 energy efficiency portfolios, such a decision will ensure another three years of programs designed to maximize incentive payments rather than energy savings. The Commission, however, has an obligation to balance the needs of both the utilities and ratepayers. Therefore, I urge you to adopt the Proposed Decision and let the verification process play-out in a transparent and accountable manner as originally conceived by the Commission, in a process that is fair and balanced to all parties.

Sincerely,

Dana S. Appling
Director, Division of Ratepayer Advocates

cc: The Honorable Arnold Schwarzenegger
Daren Bouten, Deputy Cabinet Secretary
Susan Kennedy, Chief of Staff
Paul Clanon, Executive Director
Julie Fitch, Director, Energy Division
Ken Lewis, Interim Director, Energy Division
Matthew Deal, Advisor to President Peevey
Nancy Ryan, Advisor to President Peevey
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Joseph Como, Advisor to Commissioner Chong
Jamie Fordyce, Advisor to Commissioner Grueneich
Paul Phillips, Advisor to Commissioner Simon